

HOUSE BILL No. 1187

DIGEST OF INTRODUCED BILL

Citations Affected: IC 34-28-2.

Synopsis: Petition for name change. Provides that a person who petitions for a name change is not required to publish notification or attend a hearing if the person meets other requirements. Requires the petitioner to: (1) notify all the petitioner's creditors; and (2) file an affidavit with the court. Provides that the court may grant the petition if the court finds that the petitioner is not requesting a name change to defraud others or hide criminal activity. Corrects an internal reference.

Effective: July 1, 2005.

McClain

January 6, 2005, read first time and referred to Committee on Judiciary.

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Introduced

First Regular Session 114th General Assembly (2005)

PRINTING CODE. Amendments: Whenever an existing statute (or a section of the Indiana Constitution) is being amended, the text of the existing provision will appear in this style type, additions will appear in **this style type**, and deletions will appear in ~~this style type~~.

Additions: Whenever a new statutory provision is being enacted (or a new constitutional provision adopted), the text of the new provision will appear in **this style type**. Also, the word **NEW** will appear in that style type in the introductory clause of each SECTION that adds a new provision to the Indiana Code or the Indiana Constitution.

Conflict reconciliation: Text in a statute in *this style type* or ~~this style type~~ reconciles conflicts between statutes enacted by the 2004 Regular Session of the General Assembly.

HOUSE BILL No. 1187

A BILL FOR AN ACT to amend the Indiana Code concerning civil law and procedure.

Be it enacted by the General Assembly of the State of Indiana:

1 SECTION 1. IC 34-28-2-3 IS AMENDED TO READ AS
2 FOLLOWS [EFFECTIVE JULY 1, 2005]: Sec. 3. (a) **Except as**
3 **provided in section 3.5 of this chapter**, upon filing a petition for a
4 name change, the applicant shall give notice of the petition as follows:

5 (1) By three (3) weekly publications in a newspaper of general
6 circulation published in the county in which the petition is filed
7 in court.

8 (2) If no newspaper is published in the county in which the
9 petition is filed, the applicant shall give notice in a newspaper
10 published nearest to that county in an adjoining county.

11 (3) The last weekly publication shall be published not less than
12 thirty (30) days before the day the petition will be heard as
13 indicated in the notice.

14 (b) In the case of a petition described in section 2(b) of this chapter,
15 the petitioner must publish the first notice of the petition not more than
16 seven (7) days after the date the petition is filed.

17 (c) In the case of a petition described in section 2(b) of this chapter,

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the notice required by this section must include the following:

- (1) The name of the petitioner.
- (2) The name of the minor child whose name is to be changed.
- (3) The new name desired.
- (4) The name of the court in which the action is pending.
- (5) The date on which the petition was filed.
- (6) A statement that any person has the right to appear at the hearing and to file objections.

(d) Except as provided in section 1.5 of this chapter, in the case of a person who has had a felony conviction within ten (10) years before filing a petition for a change of name, at least thirty (30) days before the hearing the petitioner must give notice of the filing of the petition to:

- (1) the sheriff of the county in which the petitioner resides;
- (2) the prosecuting attorney of the county in which the petitioner resides; and
- (3) the Indiana central repository for criminal history information.

(e) The notice given to the Indiana central repository for criminal history information under subsection (d) must include the petitioner's full current name, requested name change, date of birth, address, physical description, and a full set of classifiable fingerprints.

(f) The Indiana central repository for criminal history information shall forward a copy of any criminal records of the petitioner to the court for the court's information.

(g) A copy of the court decree granting or denying such a petition shall be sent to the Indiana state police.

(h) A person who violates subsection (d) commits a Class A misdemeanor.

SECTION 2. IC 34-28-2-3.5 IS ADDED TO THE INDIANA CODE AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2005]: Sec. 3.5. (a) A person who files a petition for a name change is not required to comply with:

- (1) the publication and proof of publication requirements under sections 3 and 4 of this chapter; and**
- (2) the hearing requirement under this chapter;**

if the petitioner complies with subsection (b).

(b) The petitioner must:

- (1) file an affidavit stating that the petitioner:**
 - (A) has notified all of the petitioner's creditors by certified mail of the petition for name change; and**
 - (B) is not requesting a name change to:**
 - (i) defraud others; or**

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(ii) hide criminal activity; and

(2) attach to the affidavit evidence of the notification under subdivision (1)(A).

(c) After the petitioner files the affidavit under subsection (b), the court may grant the petition for the name change if the court determines that the petitioner is not requesting the name change to:

(1) defraud others; or

(2) hide criminal activity.

(d) This section does not apply to a petition described in section 2(b) of this chapter.

SECTION 3. IC 34-28-2-4 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2005]: Sec. 4. (a) **Except as provided in section 3.5 of this chapter**, proof of the publication required in this chapter is made by filing a copy of the published notice, verified by the affidavit of a disinterested person, and when proof of publication is made, the court shall, subject to the limitations imposed by subsections (b), (c), and (d), proceed to hear the petition and make an order and decree the court determines is just and reasonable.

(b) In the case of a petition described in section 2(b) of this chapter, the court may not hear the petition and issue a final decree until after thirty (30) days from the later of:

(1) the filing of proof of publication of the notice required under subsection (a); or

(2) the service of the petition upon the parents or guardian of the minor child.

(c) In the case of a petition described in section 2(b) of this chapter, the court shall set a date for a hearing on the petition if:

(1) written objections have been filed; or

(2) either parent or the guardian of the minor child has refused or failed to give written consent as described in section 2(b) of this chapter.

The court shall require that appropriate notice of the hearing be given to the parent or guardian of the minor child or to any person who has filed written objections.

(d) In deciding on a petition to change the name of a minor child, the court shall be guided by the best interest of the child rule under IC 31-17-2-8. However, there is a presumption in favor of a parent of a minor child who:

(1) has been making support payments and fulfilling other duties in accordance with a decree issued under IC 31-15, IC 31-16, or

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- 1 ~~IC 17~~ **IC 31-17** (or IC 31-1-11.5 before its repeal); and
- 2 (2) objects to the proposed name change of the child.
- 3 (e) In the case of a person required to give notice under section 3(d)
- 4 of this chapter, the petitioner must certify to the court that the petitioner
- 5 has complied with the notice requirements of that subsection.

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